IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No.3043 OF 2007

Mahendra Jaggi Tiwari ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr N. K. Sharma, Advocate for the applicant.

Mr Rajesh More, APP for the respondent.

CORAM: V.C. DAGA,J.
DATED: 17.9.2007.

P.C.

1. Heard learned counsel for the applicant and the learned APP for the State.

2. Perused the application and the material available on record.

3. The applicant-original accused arrested in C.R. No. 118 of 2006, registered with Vakola Police Station, for the offence under Section 376,451 of the I.P.C., is seeking bail under Section 439 of the Cr.P.C.

4. According to the prosecution, on the date of alleged incident the prosecutrix was alone in her house. The accused entered in the house. He latched the door from inside. Inspite of her resistence, he forcibly committed sexual intercourse with the prosecutrix. A complaint came to be lodged against

the accused which resulted in registration of offence against the accused.

5. The learned counsel for the applicant sought to be argued that there was consent and, therefore, no offence could be said to have been committed by the accused. Prima facie, there is no material on record to infer that the prosecutrix was a consenting party.

6. In the above view of the matter and for the reasons recorded by the learned Sessions Court, Mumbai in its order dated 5.6.2006 in Bail Application No. 1065 of 2006, the present application stands rejected.

(V.C.DAGA,J)